

November 23, 2005

Via Facsimile and U.S. Mail

John Barnett, Chairman
Cowlitz Indian Tribe
P.O. Box 2547
Longview, WA 98632-8594

RE: Cowlitz Indian Tribe's Class II Gaming Ordinance

Dear Chairman Barnett:

On August 29, 2005, the National Indian Gaming Commission (NIGC) received Tribal Council Ordinance No. 05-2 (Aug. 22, 2005), the proposed tribal gaming ordinance of the Cowlitz Indian Tribe (the Tribe). Aside from the ordinance's definition of "Tribe's Indian Lands," the tribal gaming ordinance generally follows the NIGC's model tribal gaming ordinance and is consistent with the requirements of the Indian Gaming Regulatory Act (IGRA) as well as the NIGC's implementing regulations.

The ordinance's definition of "Tribe's Indian Lands" contains a site-specific legal land description of a nearly 152-acre site in Clark County, Washington, made expressly contingent on the United States first accepting trust title to the site and the Tribe first exercising governmental power over the site. This proposed definition required the NIGC to conduct a legal analysis of the applicability of IGRA's restored lands for a restored tribe provision, 25 U.S.C. § 2719(b)(1)(B)(iii), in order to determine whether the Tribe will be allowed to conduct gaming activities on the site if the Department of the Interior accepts the land into trust for the benefit of the Tribe.

The NIGC's Office of General Counsel has provided me with a legal opinion concluding that the Tribe was "restored to Federal recognition" and that if the Department of the Interior accepts trust title to the 152-acre site, such trust acquisition will be part of the "restoration of lands" for the Tribe, as those terms are used in 25 U.S.C. § 2719(b)(1)(B)(iii). The record supports the Office of General Counsel's opinion, and I therefore adopt the analysis and conclusion provided therein.

Therefore, the tribal gaming ordinance is hereby approved. This approval is not intended to provide any recommendation to the Secretary of the Interior regarding the Tribe's pending fee-to-trust application, or to affect the Secretary's discretion in making the fee-to-trust decision.

Additionally, this approval does not authorize the Tribe to conduct gaming on the subject site. In order to conduct gaming on the subject site, the Department of the Interior must first accept the land into trust, and the Tribe must first exercise government authority over the site.

Sincerely,

/s/

Philip N. Hogen
Chairman